

SENATE BILL 1162
By Fowler

AN ACT to amend Tennessee Code Annotated, Title 30;
Title 31; Title 32; Title 34; Title 35; Title 67 and
Title 68, relative to probate, wills, trusts, custodial
accounts, guardianship, conservatorship, taxes
and healthcare powers of attorney.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 30-1-151, is amended by deleting the language "§ 35-1-106" and by substituting instead the following:

§ 35-15-706.

SECTION 2. Tennessee Code Annotated, Section 30-2-307, is amended by adding the following language as a new, appropriately designated subsection:

(e) A creditor who has timely filed a claim against the estate shall file any amendment to its claim no later than thirty (30) days from the later of:

- (1) The date an exception to the claim is filed; or
- (2) The expiration of the exception period.

Unless the court with jurisdiction over the probate of the decedent's estate grants an extension of time for amendment on the creditor's showing of extraordinary circumstances, any amendment filed after the time prescribed shall be void.

SECTION 3. Tennessee Code Annotated, Section 30-2-314(a), is amended by adding the following sentence at the end of the subsection:

If the creditor timely files an amendment as permitted by § 30-2-307(e), the personal representative shall file any exception to the amended claim not later than thirty (30) days from the later of;

- (1) The date the amendment is filed with the clerk; or

(2) The expiration of the exception period.

SECTION 4. Tennessee Code Annotated, Section 30-2-614(c), is amended by inserting the following language in the second sentence immediately after the words “the proportionate amount of such tax”:

, including interest, attorney fees and other costs of collection,

SECTION 5.

(a) Section 30-2-614(f), is amended by inserting the following language in the first sentence immediately after the words “satisfactory allocation of the tax”:

, including interest, attorney fees and other costs of collection,

(b) Section 30-2-614(f), is amended by inserting the following language in the second sentence immediately after the words "against whom the tax":

, including interest, attorney fees and other costs of collection,

SECTION 6. Tennessee Code Annotated, Section 30-4-103(1), is amended by deleting the language “adult legatees or devisees,” and by substituting instead the following:

adult legatees or devisees or personal representatives named in the decedent’s will,

SECTION 7. Tennessee Code Annotated, Section 34-1-128, is amended by designating the existing language subsection (a) and adding the following new language, to be designated as subsections (b), (c) and (d):

(b) All guardianship and conservatorship documents maintained in any medium by the clerk are confidential. Except as otherwise provided in subsection (c), statutes regarding public records shall not be construed to permit access to these records without a court order.

(c) Notwithstanding the provisions of subsection (b) to the contrary, the following persons may have access to the guardianship and conservatorship files:

(1) The court appointed guardian or conservator;

- (2) The personal representative of the estate of the minor or disabled person;
- (3) The attorney of record for any party in the matter;
- (4) The parents, spouse, adult children or adult siblings of the person for whom a guardian or conservator is appointed;
- (5) A title agent investigating the minor or disabled person's interest in real property subject to a court-ordered sale; and
- (6) Any person authorized by court order.

Nothing in this subsection (c) shall be construed to limit access to information made confidential by subsection (b), when the guardian or conservator expressly authorizes in writing the release of such information.

(d) The actions of the clerk and the clerk's personnel, or their successors, undertaken in the performance of their duties within the scope of the clerk's authority shall be presumed to be undertaken in good faith and the clerk and the clerk's personnel shall thereby be entitled to absolute immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. The presumption shall be overcome only by clear and convincing evidence that the actions were malicious or were for personal gain. This absolute immunity extends to information provided to the clerk or the clerk's personnel by any person or entity which is either incorrect or false.

SECTION 8. Tennessee Code Annotated, Section 35-7-214, is amended by adding the following language as a new, appropriately designated subsection:

(c) The custodian is authorized to invest some or all of the custodial property in the Internal Revenue Code Section 529 plan, if the custodian determines the investment to be in the best interest of the minor.

SECTION 9. Tennessee Code Annotated, Section 35-15-601, is amended by adding the following new sentence at the end of the section:

To be effective as a post death disposition of property transferred during the transferor's life or by the transferor's will to a trust of which the transferor is the settler or deemed to be the settler, neither a revocable nor irrevocable trust existing on or executed after the effective date of the Tennessee Uniform Trust Code has to be executed with the formalities of a will.

SECTION 10. Tennessee Code Annotated, Section 35-15-816(b)(19), is amended by adding the following language at the end of the subsection:

provided however, this power shall not apply to any beneficiary's interest that is subject to a spendthrift provision;

SECTION 11. Tennessee Code Annotated, Section 35-50-107(a)(2)(B), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(B) Any resident or nonresident person may serve as a personal representative of the estate of a decedent.

SECTION 12. Tennessee Code Annotated, Section 35-50-107(a)(2)(E), is amended by deleting the language "Any person, related by blood or marriage, may serve as the guardian" and by substituting instead the following:

Any person may serve as the guardian

SECTION 13. Tennessee Code Annotated, Section 35-50-107(a)(2)(F), is amended by deleting the language "Any person, related by blood or marriage, may serve as the conservator" and by substituting instead the following:

Any person may serve as the conservator

SECTION 14. Tennessee Code Annotated, Section 67-4-409(a)(3)(A), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(A) Creation or dissolution of a tenancy by the entirety:

(i) By the conveyance from one (1) spouse to the other;

(ii) By the conveyance from one (1) spouse or both spouses to the original grantor or grantors in the instrument and the original grantor's spouse; or

(iii) By the conveyance from one (1) spouse or both spouses to a trustee and immediate reconveyance by the trustee in the same instrument as tenants in common, tenants in common with right of survivorship, joint tenants or joint tenants with right of survivorship.

SECTION 15. The provisions of Section 9 reflect existing Tennessee law notwithstanding the decision in *Arnold v. Davis*; the remaining provisions of the act shall take effect on becoming law, the public welfare requiring it.